



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

E. S
2/4/99
#165716

REPLY TO THE ATTENTION OF:

C-14J

February 4, 1999

To: The Respondents on the attached Mailing List for the Conservation Chemical Company of Illinois, Inc., Gary Indiana.

Re: Effective Date of the final Administrative Order on Consent for Removal Actions and Reimbursement of Costs at the Conservation Chemical Company of Illinois, Inc. Site, Gary, Indiana.

Dear Sir or Madam:

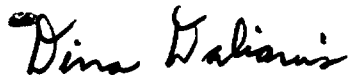
Thank you for your participation in the above-referenced settlement for the Conservation Chemical of Illinois, Inc. Site in Gary, Indiana ("CCCI Site" or "the Site"). Please be advised that the CCCI Administrative Order on Consent ("AOC") has been approved by the United States Environmental Protection Agency ("U.S. EPA") as a final matter. A copy of the final AOC for the settlement, Docket No. V-W-98-C-497, is enclosed for your information. **The effective date of the AOC is today, February 4, 1999.**

U.S. EPA published notice of the proposed settlement for the CCCI Site in the Federal Register on November 19, 1998, 63 Fed. Reg. 64256. The 30-day public notice and comment period closed on December 19, 1998. Comments on the proposed settlement were timely received by the Agency from one commenter. U.S. EPA, through the Director, Superfund Division, U.S. EPA, Region 5, determined that these comments did not disclose facts or considerations that would indicate that the proposed settlement for the CCCI Site was inappropriate, improper, or inadequate. Accordingly, the CCCI settlement was not modified or withdrawn. On February 1, 1999, the Director approved the CCCI settlement as a final matter. See attached copy of the Director's declaration. Therefore, in accordance with Section XX. of the AOC, the effective date of the AOC is today, February 4, 1999.

Within 30 calendar days of February 4, 1999, the effective date of this AOC, Respondents shall pay to U.S. EPA \$258,304.00 in payment of past response costs, pursuant to Section VII. of the AOC. Respondents shall also pay U.S. EPA oversight costs consistent with Section VII. of the AOC.

If you have any questions regarding the enclosed final AOC, please call me at (312)353-1027.

Sincerely,

A handwritten signature in cursive script that reads "Dina Dalianis".

Constandina K. Dalianis
Associate Regional Counsel

Enclosures

bcc: Steve Faryan, OSC
Valerie Mullins, Enforcement Specialist
Administrative Record for CCCI Site

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(For International Harvester)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
CONSERVATION CHEMICAL)	
COMPANY OF ILLINOIS, INC.,)	
GARY, INDIANA	)	U.S. EPA DOCKET NO.
	)	V-W-98-C-497
Proceeding under Sections 106 and 122(h))	
of the Comprehensive Environmental	)	Administrative Order
Response, Compensation, and	)	on Consent
Liability Act of 1980, as amended,)	
42 U.S.C. §§ 9606 and 9622(h).)	
_____)	

DECLARATION OF WILLIAM E. MUNO

The authority vested in the President of the United States by Sections 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERLCA"), 42 U.S.C. §§ 9606(a), 9607, and 9622, to enter into settlements for performance of removal actions and reimbursement of response costs incurred by the United States was delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order Number 12580, 52 Federal Register 2923 (Jan. 29, 1987), and further delegated to the Regional Administrators by U.S. EPA Delegation Numbers 14-14-A, 14-14-C, and 14-14-D. The Regional Administrator redelegated authority under Section 122 to the Director, Superfund Division, Region 5, by U.S. EPA Region 5 Delegation Number 14-14-D, May 2, 1996.

The Director, Superfund Division, consented and executed the proposed Administrative Order on Consent for the above-captioned matter on September 15, 1998. Pursuant to Section 122(i) of CERLCA, 42 U.S.C. §9622(i), notice of the settlement proposal appeared in the Federal Register on November 19, 1998, 63 Fed. Reg. 64256. The 30 day public notice and comment period following publication closed on December 19, 1998. As required by Section 122(h) of CERCLA, 42 U.S.C. §9622(h), for facilities where response costs exceed \$500,000, the Administrative Order on Consent was approved by the Attorney General's designee, Lois J. Schiffer, on October 26, 1998.

Section 122(i)(3) of CERCLA provides that "the head of the department or agency shall consider any comments filed. . . and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate." 42 U.S.C. §9622(i)(3). U.S. EPA received comments on this proposed settlement and prepared a response to these comments in a letter to the commenter. U.S. EPA finds that the comments do not disclose facts or considerations which

indicate that the proposed settlement was inappropriate, improper, or inadequate. Accordingly, the settlement embodied in the Administrative Order on Consent in the above-captioned matter is approved as a final matter.

Feb. 1, 1997
Date

W. E. Muno
William E. Muno, Director
Superfund Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:	)	Docket No. W-W- '98-C-497
)	
CONSERVATION CHEMICAL COMPANY	)	ADMINISTRATIVE ORDER BY
OF ILLINOIS, INC.,	)	CONSENT PURSUANT TO
GARY, INDIANA	)	SECTIONS 106 AND 122(h)
	)	OF THE COMPREHENSIVE
	)	ENVIRONMENTAL RESPONSE,
Respondents:	)	COMPENSATION, AND
	)	LIABILITY ACT OF 1980,
Listed in Attachment A	)	as amended, 42 U.S.C.
	)	§§ 9606(a) and 9622(h).
)	

I. JURISDICTION AND GENERAL PROVISIONS

This Order is entered voluntarily by the United States Environmental Protection Agency ("EPA") and the Respondents. The Order is issued pursuant to the authority vested in the President of the United States by Sections 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606(a), 9607 and 9622. This authority has been delegated to the Administrator of the EPA by Executive Order Number 12580, 52 Federal Register 2923 (Jan. 29, 1987), and further delegated to the Regional Administrators by EPA Delegation ~~Numbers~~ 14-14-A, 14-14-C and 14-14-D. The Regional Administrator redelegated authority under Section 122 to the Director, Superfund Division, Region 5, by EPA Region 5 Delegation Number 14-14-D, May 2, 1996.

This Order provides for performance of removal actions at property located at 6500 Industrial Highway, Lake County, Gary, Indiana, known as the Conservation Chemical Company of Illinois, Inc., (the "CCCI Site" or the "Site"), and reimbursement of response costs incurred by the United States in connection with these removal actions. This Order requires the Respondents to conduct removal actions described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site. A copy of this Order will also be provided to the State of Indiana, which has been notified of the issuance of this Order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

Respondents' participation in this Order shall not constitute an admission of liability or of EPA's findings or determinations contained in this Order except in a proceeding to enforce the terms of this Order. Respondents agree to comply with and be bound by the terms of this Order. Respondents further agree that they will not contest the basis or validity of this Order or its terms.

Respondents specifically deny that they have ever been identified as having sent PCBs to the CCCI Site or that they have any liability whatsoever for PCBs at the Site other than as voluntarily agreed to herein in order to advance the resolution of this matter.

EPA does not necessarily agree with Respondents' denial of liability for PCBs at the Site. In the interest of advancing the resolution of this matter, however, EPA recognizes that the issue of Respondents' liability for the PCBs at the Site need not be resolved on or before the effective date of this Order. The issue of Respondents' liability for PCBs may be addressed by EPA at some future time, if the reopener provisions in Section V are exercised by the Respondents.

II. PARTIES BOUND

This Order applies to and is binding upon and inures to the benefit of EPA, Respondents and Respondents' heirs, receivers, trustees, successors, and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order.

III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, EPA makes the following Findings of Fact, which Respondents do not admit:

1. The Conservation Chemical Company of Illinois, Inc. Site is

a 4.1-acre, triangular-shaped piece of land in Gary, Indiana. The Site is situated north of and adjacent to the Gary Municipal Airport's main runway, and is bounded by the Western Scrap property to the north, the Elgin, Joliet and Eastern Railroad tracks to the south, and a wetlands to the west. The Site is not on the National Priorities List, 40 C.F.R. § 300, Appendix B.

2. Prior to 1967, the property was owned by the Berry Oil Company which operated an oil refinery at the Site. In 1967, Norman Hjersted, President of the Conservation Chemical Company of Illinois, Inc., acquired the property described above from the Berry Oil Company. From 1967 through 1985, the Conservation Chemical Company of Illinois, Inc. conducted operations at the Site, including storing and treating spent acids, oils, and solvents, operating as a producer of ferric chloride, and operating as a hazardous waste terminal and treatment facility for cyanide, organic solvents, plating waste and waste oils. The Conservation Chemical Company of Illinois, Inc. ceased operations in 1985.

3. Hazardous substances have been or are threatened to be released into the environment at the CCCI Site. In February 1985, EPA's Technical Assistance Team (TAT) conducted a Site Assessment and identified several imminent threats to human health and the environment. They found 13 tanks of cyanide waste with concentrations up to 19,000 part per million (ppm); free cyanide, totaling at least 184,531 gallons; 12 tanks of hydrochloric and sulfuric acid, totaling at least 413,500 gallons; one tank of at least 15 cubic yards of acid sludge; many severely corroded and leaking tanks and drums of acids, caustics, flammables, polychlorinated biphenyls (PCBs) and cyanide-contaminated materials; one tank containing silicon tetrachloride; two tanks containing an estimated 495,580 gallons of PCB-contaminated materials; and contaminated soils.

4. As a result of the release or threatened release of hazardous substances into the environment, EPA has undertaken response actions at the Site under Section 104 of CERCLA, 42 U.S.C. § 9604. From October 1985 through September 1990, EPA conducted limited, but substantial removal activities at the Site, including, construction of a fence to secure the Site; excavation, sampling and off-Site disposal of buried drums containing hazardous substances; consolidation of hazardous waste from severely deteriorating and leaking drums and tanks and placement into more structurally sound tanks on-Site; and off-Site disposal of solid and liquid hazardous waste from certain tanks and drums.

5. In connection with the removal activities described above, the Agency disposed of 187,948 gallons of PCB-contaminated oil; 214.78 tons of PCB-contaminated soil; 1,941 gallons of liquid hazardous waste; 60 tons of hazardous waste solids; 15,300 gallons of flammable waste liquid; 112 gallons of flammable waste solid; 1,760 gallons of waste chromic acid; 2,960 gallons of non-hazardous solid; 74 cubic yards of contaminated debris; and 51,600 pounds of silicon tetrachloride.

6. On September 27, 1985, EPA issued a CERCLA Section 106(a) Unilateral Administrative Order (UAO) to the owner-operator of the Conservation Chemical Company of Illinois, Inc. and 18 generator-potentially responsible parties that were associated with the Site. A supplemental UAO was issued by EPA to the same Respondents on November 22, 1985. Pursuant to the UAOs, a group of the generator-potentially responsible parties conducted limited, but significant removal activities at the Site, including constructing a fence around a portion of the Site for security purposes, removal and off-Site disposal of acids from 4 tanks; removal and off-Site disposal of acid sludge from 1 tank; removal and off-Site disposal of cyanide from 13 tanks; and dismantling a tower used to store cyanide and off-Site disposal of the tower's cyanide-contaminated building materials.

7. EPA's TAT conducted a Site Assessment in 1994 to document the remaining threats at the CCCI Site, and found several imminent and substantial threats to the environment. The TAT documented 12 non-empty deteriorating tanks containing acids and solvents; a number of corroded empty tanks with acid and caustic residue; a number of drums containing acids and caustic liquids; a number of empty drums with acid and caustic residue; soil contaminated with hazardous substances; lagoons/sludge pits containing hazardous substances; 5000 cubic yards of PCB-contaminated soil; five uncontrolled packs containing laboratory chemicals; 20 cubic yards of asbestos-containing materials; contaminated waste oils; and contaminated groundwater. Geoprobe testing by the TAT confirmed the presence of a floating layer of contaminated material in the shallow aquifer, located approximately 10 feet under the surface. Although this shallow aquifer itself is not used as a source of drinking water, it flows to the unnamed ditch located on the Gary Airport property, and, eventually, to the Calumet River. Further, the TAT found that human and animal populations had access to the Site and hazardous substances located on-Site because there were sections of fencing missing around the Site.

8. Analytical testing of waste samples taken during that Site Investigation revealed the presence of hazardous substances and

hazardous wastes on-Site, including, but not limited to acetone, asbestos, benzene, cyanide, 1,2-dichlorobenzene, 1,1-dichloroethane, dichloromethane, isophorone, lead, 2-methylnaphthalene, naphthalene, polyaromatic hydrocarbon (PAH) compounds, sludge material demonstrating the characteristic of toxicity for chromium, tetrachloroethene, 1,1,1-trichloroethane, trichloroethene, and toluene.

9. On September 28, 1994, EPA issued a General Notice of Potential Liability for the CCCI Site to over two hundred Potentially Responsible Parties (PRPs), including the owner/operator of the Site and a number of generators. EPA's review of documents such as bills of lading and receipts, demonstrated incoming disposal transactions between the CCCI Site in Gary, Indiana and the named generators, and provided the basis for linking the generators to the Site.

10. On August 30, 1996, EPA entered into a final *de minimis* settlement with 153 *de minimis* PRPs at the CCCI Site. Under the Administrative Order on Consent for that *de minimis* settlement, the settling parties agreed to make settlement payments that included each settling party's fair share of the past and estimated future response costs at the Site, plus a premium assessed against estimated future response costs to account for potential cost overruns, the potential for failure of the selected response action to clean up the Site, and other risks.

11. In mid-January 1997, EPA issued a General Notice of Potential Liability to each Respondent listed on Attachment A to this Order, along with a draft of this Order and invitation to engage in settlement discussions.

12. "Other PCB-contaminated material" shall mean any PCB-contaminated media containing in excess of 50 ppm PCBs and not associated with or derived from the PCB-contaminated oils formerly contained in Tank No. 22, and/or the PCB-contaminated waste pile as defined in Section III., Paragraph 13.

13. Following the effective date of this Order, U.S. EPA, and not the Respondents to this Order, will plan and conduct the cleanup of the PCB-contaminated waste pile. For purposes of this Order, the "PCB contaminated waste pile and adjacent area" shall mean the approximate 5,000 cubic yards of PCB-contaminated waste, the area around former tank number 22, and the area where the PCB-containing materials were removed from Tank 22 and mixed with soil and lime. The Agency's cleanup of the aforementioned PCB-contaminated wastes is being funded by a portion of the monies that were collected from a prior *de minimis* settlement. The

monies for the aforementioned cleanup of PCB-contaminated wastes are currently held in a special account for the CCCI Site.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, EPA has made the following Conclusions of Law and Determinations, which Respondents do not admit:

1. The CCCI Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. Cyanide, PCBs, asbestos, chromium, lead, acid liquids and sludges, caustic liquids and sludges, acetone, dichloromethane, trichloroethene, isophorone, 1,1,1-trichloroethane, trichloroethene, toluene, 1,2-dichlorobenzene, 2-methylnaphthalene, naphthalene, tetrachloroethene, 1,1-dichloroethane and benzene are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. The Conservation Chemical Company of Illinois, Inc. and Norman Hjersted are the present "owners" and "operators" of the CCCI Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20). Respondents listed in Attachment A are persons who arranged for the disposal or the transport for disposal of hazardous substances at the Conservation Chemical Company of Illinois Site. Each Respondent therefore may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the facility into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).
6. The conditions present at the Site constitute a threat to human health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 C.F.R. § 300.415(b)(2). These factors include, but are not limited to, the following:

- a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the existence of deteriorating tanks containing acids and cyanide; loose friable asbestos; cyanide in surface impoundments; and five uncontrolled packs containing laboratory chemicals.
- b. actual or potential contamination of drinking water supplies or sensitive ecosystems; this factor is present at the Site due to surface drainage patterns that direct contaminated surface runoff towards a wetlands located directly south of the Site, and the discharge of contaminated groundwater to the unnamed drainage ditch which is also located to the south of the Site and flows to the Grand Calumet River.
- c. hazardous substances, pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release; this factor is present at the Site due to the existence on-Site of at least 175 drums and 12 tanks containing acid and caustic liquids, and drums containing cyanide.
- d. high levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; this factor is present at the Site due to the ~~ex~~istence of significant concentrations of PCB-contaminated soil, and chromium-contaminated soil that are at or near the surface.
- e. weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the existence of severe cold-weather conditions, (including snow, icing, freeze-thaw phenomena and extreme cold temperatures) in the fall and winter seasons. These conditions could adversely affect the tanks, drums, surface impoundments, and contaminated soils, all of which are exposed to the elements.
- f. threat of fire or explosion; this factor is

present at the Site due to the existence of a tank containing acetone with a flash point of 65 degrees that has a propensity for fire and explosion, and which has the ability to react violently with oxidizing materials.

- g. other situations or factors that may pose threats to public health or welfare or the environment; this factor is present at the Site due to the existence of vandalism problems, as evidenced by the missing sections of fencing around the Site that could facilitate easy access to the Site (and hazardous substances) by humans and animal populations. In addition, the three vertical tanks full of acid and caustic liquids have easily accessible valves which could be opened and, subsequently, allow the release of hazardous substances into the environment. These acid liquids, if released, could react with cyanide-contaminated soils and drums containing cyanide, causing the creation and release of hydrogen cyanide, an extremely poisonous substance and chemical asphyxiant.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the human health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the human health, welfare, or the environment, and are not inconsistent with the NCP or CERCLA. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law and Determinations, it is hereby ordered and agreed that Respondents shall comply with the following provisions, including but not limited to all documents attached to or incorporated into this Order, and perform the following actions:

1. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions required by this Order themselves or retain contractors to implement the removal actions. Respondents shall notify EPA of Respondents' qualifications or the name and qualifications of such contractors, whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order, at least 5 business days prior to commencement of such work. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If EPA disapproves a selected contractor, Respondents shall retain a different contractor within 25 business days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within 30 business days of EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order. Respondents shall submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the extent practicable, the Project Coordinator shall be present on-Site or readily available during Site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 15 business days following EPA's disapproval and shall notify EPA of that person's name and qualifications within 20 business days of EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by (all) Respondents.

The EPA has designated Steven J. Faryan of the Emergency Response Branch, Region 5, as its On-Scene Coordinator (OSC). Respondents shall direct all submissions required by this Order to the OSC at 77 West Jackson Blvd., Chicago, Illinois 60604-3590 (Mail Code: HSE2-5J), by certified or express mail. Respondents shall also send a copy of all submissions to Cynthia N. Kawakami, Associate Regional Counsel, 77 West Jackson Boulevard, (Mail Code: C-14J), Chicago, Illinois, 60606-3590. All Respondents are encouraged to make their submissions to EPA on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies.

EPA and Respondents shall have the right, subject to the immediately preceding paragraph, to change their designated OSC or Project Coordinator. EPA shall notify the Respondents, and

Respondents shall notify EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. The initial notification may be made orally but it shall be promptly followed by a written notice.

2. Work to Be Performed

Respondents shall perform the following removal actions:

- a. Immediately control access to the Site by repairing and/or constructing fences, and provide appropriate Site security during implementation of the Work Plan;
- b. Conduct an inventory of the drums found on-Site, and overpack or cover leaking drums and containers;
- c. Perform sampling and analyses of all drums, tanks, soil, pits, lagoons, asbestos, drums of laboratory chemicals, cooling towers, and any other identified areas, as per the OSC. This shall include the collection of samples from each container and compositing of samples into appropriate waste streams, including, but not limited to chromium-contaminated soils, flammable and combustible liquid waste, cyanide liquid and solid waste, acid liquid and solid waste, corrosive liquid and solid waste, and any other identified waste stream for analysis of disposal parameters. Appropriate samples shall also be sent to waste facilities that are in compliance with the CERCLA off-Site Rule;
- d. Clean, cut and scrap all metal tanks, cooling towers, pipe and any other clean iron found on-Site.
- e. Perform hazard categorization (hazcatting) analyses to assess the viability of bulk-loading and disposal of the liquid and solid waste. Segregate drums and containers into compatible waste streams based on hazcatting analyses and dispose of them in accordance with applicable regulations.
- f. Conduct an extent of contamination study in the eastern one-third of the Site that lies roughly between the Elgin, Joliet and Eastern Railroad

tracks and the unnamed railroad tracks that transect the CCCI Site. The extent of contamination study will also include hot spots in and around the tank and drum storage areas, but will exclude the area of the PCB-contaminated waste pile and adjacent area. This study is to characterize the surface and sub-surface soil contamination. Surface and sub-surface samples shall be analyzed for PCBs, TCL and TAL parameters, Cyanide, TCLP parameters, and other RCRA-characteristic analytes.

- g. Conduct a geophysical survey in the eastern one-third of the Site that lies roughly between the EJ&E Railroad tracks and the unnamed railroad tracks that transect the CCCI Site, and along the border of the CCCI Site (adjacent to the Western Scrap property) from the EJ&E Railroad tracks up to the PCB-contaminated waste pile. The geophysical survey will also include hot spots in and around the tank and drum storage areas, but will exclude the PCB-contaminated waste pile and adjacent area. This survey is to identify areas where suspected buried drums are located. Excavate, treat and dispose of contaminated soils and any buried drums from the survey area at appropriate disposal facilities.
- h. Perform a Treatability Study on the three waste lagoons to assess the viability of on-Site stabilization as a viable response action. If on-Site stabilization proves viable, the two lagoons located on the Site property may be stabilized in place, and the third lagoon may be moved onto the property and stabilized, if necessary. The stabilized wastes will then be capped with a minimum of two feet of compacted clay. To the extent that on-Site stabilization is not viable, remove and dispose of the materials in the contaminated waste lagoons at a RCRA- or TSCA-approved facility which is in compliance with the CERCLA off-Site Rule.
- i. Inventory all existing CCCI-related groundwater monitoring wells at the Site. Abandon existing groundwater monitoring wells as per IDEM regulations.
- j. Assess, design, implement, and install a hanging containment barrier along the Southeast border of the Site to contain the floating chemical layer in the shallow groundwater aquifer that originates at the CCCI Site.

- k. Collect air samples, as appropriate, during the implementation of the Work Plan, for personnel and general Site perimeter air monitoring to assess if dust, volatile organics, PCBs or other contaminants of concern are below acceptable OSHA standards;
- l. Conduct an investigation, including sampling and analysis, to determine which structures on-Site contain asbestos. Based on the investigation, all friable asbestos will be abated, packaged and disposed of in accordance with applicable regulations, prior to the demolition of all structures containing friable asbestos.
- m. Based on results from the initial sampling and extent of contamination study, treat, remove, and properly dispose of all hazardous substances or hazardous wastes, excluding the PCB-contaminated waste pile and adjacent area, at a RCRA- or TSCA-approved facility which is in compliance with the CERCLA off-Site Rule. At a minimum, Respondents shall remove and dispose of, or treat acid liquids and solids, caustic liquids and solids, cyanide liquids and solids, solvents and flammable liquids, and chromium-contaminated soils.
- n. With regard to any "other PCB-contaminated materials" that are found during the "above-ground" cleanup, including response activities regarding any tanks, vats, pits, and above-ground drums and above-ground structures, Respondents shall remove and dispose of any "other PCB-contaminated materials" found in any tank, vat, pit, and above-ground drum and structure in a manner that is in compliance with all applicable laws.
- o. With regard to any discrete pockets of "other PCB-contaminated materials" that are found in the Eastern 1/3 of the Site, as described in Section V, Subparagraph f. above, including in "hot spot" areas around the tanks, vats, pits, and above-ground drums, and around the lagoons, Respondents shall remove up to 500 cubic yards of such "other PCB-contaminated materials." However, with regard to "other PCB-contaminated materials", as described in this subparagraph o., that are estimated to exceed 500 cubic yards in a single pocket, prior to or after Respondents' removal of such "other PCB-contaminated

soil materials" up to 500 cubic yards, Respondents reserve the right to "reopen" the issue of the cleanup of such "other PCB-contaminated materials", as set forth in Subparagraph p. of this Section.

- p. With regard to all "other PCB-contaminated materials" found on-Site that are not required to be removed by subparagraphs n. and o. above, Respondents reserve the right to "reopen" the issue of the cleanup of such "other PCB-contaminated material" not required to be removed under subparagraphs n. and o. above. In the event that Respondents are entitled and choose to reopen this Order with respect to "other PCB-contaminated material" that is not required to be removed under subparagraph n. and o. above, Respondents will have no obligations under the terms of this Order, with regard to the "other PCB-contaminated material" that is the subject of the reopener, and shall reserve all defenses to liability regarding such "other PCB-contaminated material" that is the subject of the reopener, as though Respondents had not entered into this Order.
- q. Decontaminate steel tanks, lines, empty drums, pits, and containers, and collect and treat or dispose of waste-water generated. Remove decontaminated steel and debris to an appropriate recycling facility.
- r. Backfill all excavated areas with clean fill and level to pre-excavation grades.
- s. Demolish all above-ground structures and level the Site to grade. All buildings, wood cribbing, abandoned railroad spurs and elevated piping systems will be dismantled and disposed of appropriately.
- t. Prepare and implement a verification sampling plan to assess whether appropriate cleanup levels, as specified in the approved Work Plan, have been met for all identified contaminants for all media of concern. The verification sampling shall include, at a minimum, sampling of soils, excluding the PCB-contaminated waste pile and adjacent area, pits, fixated lagoon sludge, surface water, and any decontaminated buildings or debris. If verification sampling demonstrates that cleanup levels for these contaminants have not been met, conduct additional removal activities as per the direction of the OSC.

- u. PCB action levels for the cleanup at the CCCI Site shall be 50 ppm PCB, and the parties shall address such areas in accordance with the provisions of this Administrative Order on Consent.

2.1 Work Plan and Implementation

Within 30 business days after the effective date of this Order, the Respondents shall submit to EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Order.

EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of receipt of EPA's notification of required revisions. Respondents shall implement the Work Plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least 48 hours prior to beginning the on-Site work and/or remobilization pursuant to the EPA approved Work Plan. Respondents shall not commence or undertake any removal actions at the Site without prior EPA approval.

2.2 Health and Safety Plan

Within 10 business days after the effective date of this Order, the Respondents shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 C.F.R. Part 1910. If EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by EPA, and implement the plan during the pendency of the removal action.

2.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with EPA guidance.

Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for quality assurance monitoring. Respondents shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify EPA not less than 3 business days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

2.4 Post-Removal Site Control

In accordance with the Work Plan schedule, or as otherwise directed by the OSC, Respondents shall submit a proposal for post-removal Site control, consistent with Section 300.415(k) of the NCP, 40 C.F.R. § 300.415(k), and OSWER Directive 9360.2-02. Upon EPA approval, Respondents shall implement such controls and shall provide EPA with documentation of all post-removal Site control arrangements.

2.5 Reporting

Respondents shall submit a monthly written progress report to EPA concerning actions undertaken pursuant to this Order, beginning 30 calendar days after the date of EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

2.6 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the

requirements set forth in Section 300.165 of the NCP, 40 C.F.R. § 300.165. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

Within 120 days of receipt of Respondent's Final Report, EPA shall provide Respondents with either a written approval of the Final Report, or a written list of the deficiencies that must be corrected before a modified Final Report may be reviewed and approved in writing by EPA. If the Respondents are required to correct deficiencies and, subsequently, submit a revised Final Report, EPA shall provide Respondents with either a written approval of the revised Final Report or a written list of the deficiencies of the revised Final Report within 120 days of receipt of the revised Final Report.

3. Additional Work

In the event that U.S. EPA or the Respondents determine that additional work is necessary to accomplish the objectives of this Order, U.S. EPA shall specify in writing the reasons why such additional work is necessary and a schedule for completion of such work. If the Respondents do not agree to perform additional work as specified by U.S. EPA, the dispute shall be resolved pursuant to the Dispute Resolution provisions, Section VIII, of this Order. In no event shall this paragraph 3, limit the Respondents' right to reopen the issue identified in paragraph 2.p. of the cleanup of such "other PCB-contaminated material" not required to be removed pursuant to paragraphs 2.n. and 2.o.

4. Access to Property and Information

Respondents shall provide or obtain access to the Site and off-Site areas to which access is necessary to implement this Order, and shall provide access to all records and documentation related to the conditions at the Site and the actions conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Indiana representatives. These individuals shall be permitted to move freely at the Site and appropriate off-Site areas in order to conduct actions which EPA determines to be necessary. Respondents shall submit to EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractors, or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. Respondents shall reimburse EPA for all costs and attorneys fees incurred by the United States in obtaining such access.

The inability to secure any access required to implement this Order after the Respondents take reasonable measures may constitute a *force majeure* as defined in Section VIII.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any non-duplicative document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such non-privileged documents and information to EPA. In addition, Respondents shall provide non-

privileged documents and information retained under this Section at any time before expiration of the six year period at the written request of EPA.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-Site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with the CERCLA off-Site Rule, 40 C.F.R. § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

Respondents shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e), 42 U.S.C. § 9621(e), and 40 C.F.R. § 300.415(I). In accordance with 40 C.F.R. § 300.415(I), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release or endangerment caused or threatened by the release. In the event such release poses an endangerment to the public health, welfare, or the environment, Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions. If Respondents fail to respond, EPA may respond to the release or endangerment and reserve the right to recover costs associated with that response.

Where immediate notification to the OSC is required, Respondents shall also submit a written report to EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent

the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VI. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work, unless specifically directed by the OSC.

VII. REIMBURSEMENT OF COSTS

Within 30 days of the Effective Date of this Order, Respondents shall pay Two Hundred Fifty-eight Thousand Three Hundred Four Dollars (\$258,304.00) in payment of past response costs. "Past response costs" are all costs incurred through November 30, 1997, including, but not limited to, direct and indirect costs, that the United States, its employees, agents, contractors, consultants, and other authorized representatives incurred with regard to the Site.

Respondents shall pay "oversight costs" of the United States related to this Order that are not inconsistent with the NCP. EPA will send Respondents a bill for "oversight costs" on an annual basis. "Oversight costs" shall include all costs paid by the United States in connection with the Site, including, but not limited to, direct and indirect costs that the United States incurs in reviewing or developing plans, reports and other items in connection with this Order on and after December 1, 1997. Oversight costs shall not include those costs incurred by the United States in connection with U.S. EPA's cleanup of the PCB-contaminated waste pile and adjacent area.

Respondents shall, within 30 calendar days of receipt of a bill, remit a cashier's or certified check for the amount of the bill made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 7075
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Conservation Chemical of Illinois, Inc. Site" and shall reference the payors' names and addresses, the EPA Site identification number (Y1), and the docket number of this Order.

In the event that any payment is not made within the deadlines described above, Respondents shall pay interest on the unpaid balance. Interest is established at the rate specified in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). The interest shall begin to accrue on the date of the Respondents' receipt of the bill (or for past response costs, on the effective date of this Order). Interest shall accrue at the rate specified through the date of the payment. Payments of interest made under this paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section.

Respondents may dispute all or part of a bill for oversight costs" submitted under this Order, if Respondents allege that EPA has made an accounting error, or if Respondents allege that a cost item is inconsistent with the NCP.

If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondents shall pay the full amount of the uncontested costs into the Hazardous Substance Fund as specified above on or before the due date. Within the same time period, Respondents shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondents shall simultaneously transmit a copy of both checks to the OSC. Respondents shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within 20 calendar days after the dispute is resolved.

VIII. DISPUTE RESOLUTION

The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreements concerning this Order.

If the Respondents object to any EPA action taken pursuant to this Order, including billings for response costs, the Respondents shall notify EPA in writing of their objection within 10 calendar days of such action, unless the objections have been informally resolved. This written notice shall include a statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondents' position, and all supporting documentation on which such party relies. EPA shall submit its Statement of Position, including supporting documentation, no later than 10 calendar days after receipt of the written notice of dispute. In the event that these 10-day time periods for exchange of written documents may cause a delay in the work, they shall be shortened upon, and in accordance with, notice by EPA. The time periods for exchange of written documents relating to disputes over billings for response costs may be extended at the sole discretion of EPA.

An administrative record of any dispute under this Section shall be maintained by EPA. The record shall include the written notification of such dispute, and the Statement of Position served pursuant to the preceding paragraph. Upon review of the administrative record, the Director of the Waste Management Division, EPA Region 5, shall resolve the dispute consistent with the NCP and the terms of this Order.

Respondents' obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

IX. FORCE MAJEURE

Respondents agree to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a force majeure. For purposes of this Order, a force majeure is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Respondents' best efforts to fulfill the obligation. Force majeure does not include financial inability to complete the work or increased cost of performance.

Respondents shall notify EPA orally within 24 hours after Respondents become aware of any event that Respondents contend constitutes a force majeure, and in writing within 7 calendar days after the event. Such notice shall: identify the event causing the delay or anticipated delay; estimate the anticipated length of delay, including necessary demobilization and re-mobilization; state the measures taken or to be taken to minimize the delay; and estimate the timetable for implementation of the measures. Respondents shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this Section shall be grounds for EPA to deny Respondents an extension of time for performance. Respondents shall have the burden of demonstrating by a preponderance of the evidence that the event is a force majeure, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay.

If EPA determines a delay in performance of a requirement under this Order is or was attributable to a force majeure, the time period for performance of that requirement shall be extended as deemed necessary by EPA, taking into account the length of the delay and necessary remobilization requirements. EPA's determination of whether a delay in performance is attributable to a force majeure and the length of the time period extension are both subject to the dispute resolution procedures in Section VIII. Such an extension shall not alter Respondents' obligation to perform or complete other tasks required by the Order which are not directly affected by the force majeure.

X. STIPULATED AND STATUTORY PENALTIES

For each day, or portion thereof, that Respondents fail to fully perform any requirement of this Order in accordance with the schedule established pursuant to this Order, Respondents shall be liable as follows:

- a. For failure to submit a complete Work Plan pursuant to Sections 2.1 through 2.3 of this Order at the time required under the terms of this Order: Five Hundred Dollars (\$500.00) per day for the first one (1) to seven (7) days of delay, and One Thousand Dollars (\$1,000) per day for each day of delay, or part thereof, thereafter:
- b. For failure to commence and perform work in accordance with the schedule prescribed in this Order or a U.S. EPA-approved Work Plan: One Thousand Dollars (\$1,000) per day for the first one (1) to seven (7) days of delay, and One Thousand

Five Hundred Dollars (\$1,500) per day for each day of delay, or part thereof, thereafter;

- c. For failure to submit the monthly written Progress Reports pursuant to Section 2.5 at the times required under the terms of this Order: Two Hundred Dollars (\$200) per day for the first one (1) to seven (7) days of delay, and Three Hundred Dollars (\$300) per day for each day of delay, or part thereof, thereafter;
- d. For failure to submit the Final Report pursuant to Section 2.6 at the time required under the terms of this Order: Five Hundred Dollars (\$500) per day for the first one (1) to seven (7) days of delay, and Seven Hundred Fifty Dollars (\$750) per day for each day of delay, or part thereof, thereafter;

Upon receipt of written demand by EPA, Respondents shall make payment to EPA within 30 days and interest shall accrue on late payments in accordance with Section VII of this Order (Reimbursement of Costs).

Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Order. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether EPA has notified Respondents of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondents' obligations to complete the performance of the work required under this Order. Stipulated penalties shall accrue, but need not be paid, during any dispute resolution period concerning the particular penalties at issue. If Respondents prevail upon resolution, Respondents shall pay only such penalties as the resolution requires. In its unreviewable discretion, EPA may waive its rights to demand all or a portion of the stipulated penalties due under this Section. Such a waiver must be made in writing.

Violation of any provision of this Order may subject Respondents to civil penalties of up to twenty-five thousand dollars (\$25,000) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order

pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

The stipulated penalties in this Section are in addition to and not in lieu of civil penalties and punitive damages normally available under CERCLA, 42 U.S.C. §§ 9606(b)(1), 9607(c)(3).

XI. RESERVATION OF RIGHTS BY RESPONDENTS

Except as specifically provided in this Order, Respondents expressly reserve all rights and defenses they may have.

XII. RESERVATION OF RIGHTS BY EPA

Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site; to address the destruction of or loss of natural resources at or from the Site, and for the costs of any natural resource damage assessments regarding the Site; or to address matters of potential criminal liability associated with the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

XIII. OTHER CLAIMS

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

Except as expressly provided in Section XIV (Covenant Not To Sue), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such

person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). The Respondents waive any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XIV. COVENANT NOT TO SUE

Except as otherwise specifically provided in this Order, upon issuance of the EPA notice referred to in Section XVIII (Notice of Completion), EPA covenants not to sue Respondents for judicial imposition of damages or civil penalties or to take administrative action against Respondents for any failure to perform removal actions agreed to in this Order except as otherwise reserved herein.

Except as otherwise specifically provided in this Order, in consideration and upon Respondents' payment of the response costs specified in Section VII of this Order, EPA covenants not to sue or to take administrative action against Respondents under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for recovery of past and oversight costs incurred by the United States in connection with this removal action and this Order. This covenant not to sue shall take effect upon the receipt by EPA of the payments required by Section VII (Reimbursement of Costs).

These covenants not to sue are conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Order. These covenants not to sue extend only to the Respondents and do not extend to any other person.

XV. CONTRIBUTION PROTECTION

With regard to claims for contribution against Respondents for matters addressed in this Order, the Parties hereto agree that the Respondents are entitled to protection from contribution

actions or claims to the extent provided by Section 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4). Nothing in this Order precludes Parties from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XVI. INDEMNIFICATION

Respondents agree to indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action: (A) arising from, or on account of, the negligent or otherwise wrongful acts or omissions of Respondents and Respondents' officers, heirs, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors or assigns, in carrying out actions pursuant to this Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents, and any persons for performance of work on or relating to the Site, including claims on account of construction delays. Nothing in this Order, however, requires indemnification by Respondents for any claim or cause of action against the United States based on negligent action taken solely and directly by EPA (not including oversight or approval of plans or activities of the Respondents).

XVII. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction provided, however, that the modification is within the scope of the Order. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. Any other requirements of this Order may be modified in writing by mutual agreement of the parties.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of

its (their) obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XVIII. NOTICE OF COMPLETION

When EPA determines, after EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention, or payment of costs), EPA will provide written notice to the Respondents. If EPA determines that any removal activities have not been completed in accordance with this Order, EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan if appropriate to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

Within 60 days of EPA's written approval of Respondents' Final report or modified Final Report, EPA shall issue a Notice of Completion to the Respondents. The issuance of this Notice of Completion shall not relieve Respondents of any continuing responsibilities such as retention of records and payment of response costs.

XIX. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XX. EFFECTIVE DATE

This Order shall be effective upon receipt by Respondents of a copy of this Order signed by the Director, Superfund Division, EPA Region 5. Provided, however, that final acceptance by EPA of the portion of Section VII (Reimbursement of Costs) of this Order concerning "past response costs" shall be subject to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). That Section requires EPA to publish notice of the proposed settlement in the Federal Register, to provide persons who are not parties to the proposed

settlement an opportunity to comment, solely on the cost recovery component of the settlement, and to consider comments filed in determining whether to consent to the proposed settlement. After consideration of any comments submitted during the 30 day public comment period held pursuant to Section 122(I) of CERCLA, EPA may withhold consent to all or part of Section VII of this Order if comments received disclose facts or considerations which indicate that Section VII of this Order is inappropriate, improper or inadequate. Otherwise, the portion of Section VII concerning payment of "past response costs" shall become effective when EPA issues notice to Respondents that EPA is not withdrawing from that Section of the Order.

XXI. SIGNATURE BY RESPONDENTS

Each Respondent to this Order shall execute the Order on a separate signature page by signing the appropriate signature line. The signature pages for Respondents shall be submitted collectively to EPA by the Respondents, accompanied by a list identifying each of the Respondents. This list shall be attached hereto as Attachment A. Those additional parties identified on the accompanying list attached hereto as Attachment B may be added to the Order as Respondents with the consent of the initial Respondents within twelve (12) months of the effective date of this Order or prior to the commencement of an action to enforce this Order, if any, whichever occurs first. Additional parties may join the order by signing the appropriate signature page, and sending it to the Respondents' Chairperson who will send the original signature page to EPA along with a revised Attachment A and a statement signed by the Respondents' Chairperson that the additional Respondent is cooperating and participating with the other Respondents. Nothing in this provision shall modify the effective date of this Order, nor shall it alter the time frames and schedules set forth herein.

Each signature page to this Order shall be deemed an original, all of which together shall constitute one and the same instrument.

The addition of any party pursuant to the provisions of this Section is subject to EPA's unreviewable prosecutorial discretion.

IN THE MATTER OF:
CONSERVATION CHEMICAL COMPANY
OF ILLINOIS, INC.
GARY, INDIANA

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory and its successors and assigns, to this document.

Agreed this 27th day of August, 1998.

AMERICAN CHAIN & CABLE CO., INC.

By


Charles M. Denton (P-33269)

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP
Bridgewater Place, P.O. Box 352
Grand Rapids, MI 49501-0352
Phone: 616/336-6000
Fax: 616/336-7000

IN THE MATTER OF:
CONSERVATION CHEMICAL COMPANY
OF ILLINOIS, INC.
GARY, INDIANA

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory and its successors and assigns, to this document.

Agreed this 24th day of August, 1998.

By Robert J. Taggart
Corporate Director EHS
Crucible Materials Corporation
Trent Tube Division

IN THE MATTER OF:
CONSERVATION CHEMICAL COMPANY
OF ILLINOIS, INC.
GARY, INDIANA

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory and its successors and assigns, to this document.

Agreed this 18 day of August, 1998.

By



E. Kears Pollock
Executive Vice President
PPG Industries, Inc.

IN THE MATTER OF:
CONSERVATION CHEMICAL COMPANY
OF ILLINOIS, INC.
GARY, INDIANA

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory and its successors and assigns, to this document.

Agreed this 21 day of Aug, 1998.

By R. A. Butch

IN THE MATTER OF:
CONSERVATION CHEMICAL COMPANY
OF ILLINOIS, INC.
GARY, INDIANA

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory and its successors and assigns, to this document.

Agreed this 20 day of August, 1998.

By Peter L. Flemister
ASSISTANT SECRETARY
for Ansul, Incorporated (for Ansul Co.)
Peter L. Flemister

ATTACHMENT B
TO THE ADMINISTRATIVE ORDER BY CONSENT
IN THE MATTER OF
THE CONSERVATION CHEMICAL COMPANY OF ILLINOIS, INC.,
GARY, INDIANA

LIST OF POTENTIAL RESPONDENTS
THAT MAY BE ADDED TO THE ORDER AT A LATER DATE
IN ACCORDANCE WITH THE PROVISIONS OF THE ORDER

Russell Burdsall & Ward Nut and Bolt Company

Wean Pori

H. H. Howard Corporation

Toledo Pickling & Steel Service

Chemtech Industries, Inc.

Kalmus & Associates, Inc.

Nelson Steel & Wire Company

Industrial Color

Southern California Chemical Company, Inc.

Wellman Dynamics Corporation

Fansteel Electrometals

Pureco Systems, Inc.